

Union Calendar No. 484

106TH CONGRESS
2D SESSION

H. R. 1124

[Report No. 106-824]

To authorize construction of the Fort Peck Reservation Rural Water System
in the State of Montana, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 16, 1999

Mr. HILL of Montana introduced the following bill; which was referred to the
Committee on Resources

SEPTEMBER 7, 2000

Reported with an amendment, committed to the Committee of the Whole
House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on March 16, 1999]

A BILL

To authorize construction of the Fort Peck Reservation
Rural Water System in the State of Montana, and for
other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “Fort Peck Reservation*
3 *Rural Water System Act of 2000”.*

4 **SEC. 2. PURPOSES.**

5 *The purposes of this Act are—*

6 *(1) to ensure a safe and adequate municipal,*
7 *rural, and industrial water supply for the residents*
8 *of the Fort Peck Indian Reservation in the State of*
9 *Montana; and*

10 *(2) to assist the citizens of Roosevelt, Sheridan,*
11 *Daniels, and Valley Counties in the State, outside the*
12 *Fort Peck Indian Reservation, in developing safe and*
13 *adequate municipal, rural, and industrial water sup-*
14 *plies.*

15 **SEC. 3. DEFINITIONS.**

16 *In this Act:*

17 *(1) ASSINIBOINE AND SIOUX RURAL WATER SYS-*
18 *TEM.—The term “Assiniboine and Sioux Rural Water*
19 *System” means the rural water system within the*
20 *Fort Peck Indian Reservation authorized by section 4.*

21 *(2) DRY PRAIRIE RURAL WATER SYSTEM.—The*
22 *term “Dry Prairie Rural Water System” means the*
23 *rural water system authorized by section 5 in the*
24 *Roosevelt, Sheridan, Daniels, and Valley Counties of*
25 *the State.*

1 (3) *FORT PECK RESERVATION RURAL WATER*
 2 *SYSTEM.*—*The term “Fort Peck Reservation Rural*
 3 *Water System” means the Assiniboine and Sioux*
 4 *Rural Water System and the Dry Prairie Rural*
 5 *Water System.*

6 (4) *FORT PECK TRIBES.*—*The term “Fort Peck*
 7 *Tribes” means the Assiniboine and Sioux Indian*
 8 *Tribes within the Fort Peck Indian Reservation.*

9 (5) *PICK-SLOAN.*—*The term “Pick-Sloan” means*
 10 *the Pick-Sloan Missouri River Basin Program (au-*
 11 *thorized by section 9 of the Act entitled “An Act au-*
 12 *thorizing the construction of certain public works on*
 13 *rivers and harbors for flood control, and for other*
 14 *purposes”, approved December 22, 1944 (commonly*
 15 *known as the “Flood Control Act of 1944”) (58 Stat.*
 16 *891)).*

17 (6) *SECRETARY.*—*The term “Secretary” means*
 18 *the Secretary of the Interior.*

19 (7) *STATE.*—*The term “State” means the State*
 20 *of Montana.*

21 **SEC. 4. ASSINIBOINE AND SIOUX RURAL WATER SYSTEM.**

22 (a) *AUTHORIZATION.*—*The Secretary shall plan, de-*
 23 *sign, construct, operate, maintain, and replace a munic-*
 24 *ipal, rural, and industrial water system, to be known as*

1 the “Assiniboine and Sioux Rural Water System”, as gen-
2 erally described in the report required by subsection (g)(2).

3 (b) COMPONENTS.—*The Assiniboine and Sioux Rural*
4 *Water System shall consist of—*

5 (1) *pumping and treatment facilities located*
6 *along the Missouri River within the boundaries of the*
7 *Fort Peck Indian Reservation;*

8 (2) *pipelines extending from the water treatment*
9 *plant throughout the Fort Peck Indian Reservation;*

10 (3) *distribution and treatment facilities to serve*
11 *the needs of the Fort Peck Indian Reservation,*
12 *including—*

13 (A) *public water systems in existence on the*
14 *date of enactment of this Act that may be pur-*
15 *chased, improved, and repaired in accordance*
16 *with the cooperative agreement entered into*
17 *under subsection (c); and*

18 (B) *water systems owned by individual*
19 *tribal members and other residents of the Fort*
20 *Peck Indian Reservation;*

21 (4) *appurtenant buildings and access roads;*

22 (5) *all property and property rights necessary*
23 *for the facilities described in this subsection;*

1 (6) *electrical power transmission and distribu-*
2 *tion facilities necessary for services to Fort Peck Res-*
3 *ervation Rural Water System facilities; and*

4 (7) *such other pipelines, pumping plants, and*
5 *facilities as the Secretary determines to be appro-*
6 *priate to meet the water supply, economic, public*
7 *health, and environmental needs of the Fort Peck In-*
8 *Indian Reservation, including water storage tanks,*
9 *water lines, and other facilities for the Fort Peck*
10 *Tribes and the villages, towns, and municipalities in*
11 *the Fort Peck Indian Reservation.*

12 (c) *COOPERATIVE AGREEMENT.—*

13 (1) *IN GENERAL.—The Secretary shall enter into*
14 *a cooperative agreement with the Fort Peck Tribal*
15 *Executive Board for planning, designing, con-*
16 *structing, operating, maintaining, and replacing the*
17 *Assiniboine and Sioux Rural Water System.*

18 (2) *MANDATORY PROVISIONS.—The cooperative*
19 *agreement under paragraph (1) shall specify, in a*
20 *manner that is acceptable to the Secretary and the*
21 *Fort Peck Tribal Executive Board—*

22 (A) *the responsibilities of each party to the*
23 *agreement for—*

24 (i) *needs assessment, feasibility, and*
25 *environmental studies;*

1 (ii) engineering and design;
2 (iii) construction;
3 (iv) water conservation measures; and
4 (v) administration of contracts relat-
5 ing to performance of the activities de-
6 scribed in clauses (i) through (iv);

7 (B) the procedures and requirements for ap-
8 proval and acceptance of the design and con-
9 struction and for carrying out other activities
10 described in subparagraph (A); and

11 (C) the rights, responsibilities, and liabil-
12 ities of each party to the agreement.

13 (3) *OPTIONAL PROVISIONS.*—The cooperative
14 agreement under paragraph (1) may include provi-
15 sions relating to the purchase, improvement, and re-
16 pair of water systems in existence on the date of en-
17 actment of this Act, including systems owned by indi-
18 vidual tribal members and other residents of the Fort
19 Peck Indian Reservation.

20 (4) *TERMINATION.*—The Secretary may termi-
21 nate a cooperative agreement under paragraph (1) if
22 the Secretary determines that—

23 (A) the quality of construction does not
24 meet all standards established for similar facili-
25 ties constructed by the Secretary; or

1 (B) *the operation and maintenance of the*
2 *Assiniboine and Sioux Rural Water System does*
3 *not meet conditions acceptable to the Secretary*
4 *that are adequate to fulfill the obligations of the*
5 *United States to the Fort Peck Tribes.*

6 (5) *TRANSFER.—On execution of a cooperative*
7 *agreement under paragraph (1), in accordance with*
8 *the cooperative agreement, the Secretary may transfer*
9 *to the Fort Peck Tribes, on a nonreimbursable basis,*
10 *funds made available for the Assiniboine and Sioux*
11 *Rural Water System under section 9.*

12 (d) *SERVICE AREA.—The service area of the Assini-*
13 *boine and Sioux Rural Water System shall be the area*
14 *within the boundaries of the Fort Peck Indian Reservation.*

15 (e) *CONSTRUCTION REQUIREMENTS.—The components*
16 *of the Assiniboine and Sioux Rural Water System shall be*
17 *planned and constructed to a size that is sufficient to meet*
18 *the municipal, rural, and industrial water supply require-*
19 *ments of the service area of the Fort Peck Reservation Rural*
20 *Water System.*

21 (f) *TITLE TO ASSINIBOINE AND SIOUX RURAL WATER*
22 *SYSTEM.—Title to the Assiniboine and Sioux Rural Water*
23 *System shall be held in trust by the United States for the*
24 *Fort Peck Tribes and shall not be transferred unless a trans-*

1 *fer is authorized by an Act of Congress enacted after the*
 2 *date of enactment of this Act.*

3 (g) *LIMITATION ON AVAILABILITY OF CONSTRUCTION*
 4 *FUNDS.—The Secretary shall not obligate funds for con-*
 5 *struction of the Assiniboine and Sioux Rural Water System*
 6 *until—*

7 (1) *the requirements of the National Environ-*
 8 *mental Policy Act of 1969 (42 U.S.C. 4321 et seq.)*
 9 *are met with respect to the Assiniboine and Sioux*
 10 *Rural Water System;*

11 (2) *on or after the date that is 90 days after the*
 12 *date of submission to Congress of a final engineering*
 13 *report approved by the Secretary; and*

14 (3) *the Secretary publishes a written finding*
 15 *that the water conservation plan developed under sec-*
 16 *tion 7 includes prudent and reasonable water con-*
 17 *servation measures for the operation of the Assini-*
 18 *boine and Sioux Rural Water System that have been*
 19 *shown to be economically and financially feasible.*

20 (h) *TECHNICAL ASSISTANCE.—The Secretary shall*
 21 *provide such technical assistance as is necessary to enable*
 22 *the Fort Peck Tribes to plan, design, construct, operate,*
 23 *maintain, and replace the Assiniboine and Sioux Rural*
 24 *Water System, including operation and management train-*
 25 *ing.*

1 (i) *APPLICATION OF INDIAN SELF-DETERMINATION*
 2 *ACT.*—*Planning, design, construction, operation, mainte-*
 3 *nance, and replacement of the Assiniboine and Sioux Rural*
 4 *Water System within the Fort Peck Indian Reservation*
 5 *shall be subject to the Indian Self-Determination and Edu-*
 6 *cation Assistance Act (25 U.S.C. 450 et seq.).*

7 (j) *COST SHARING.*—

8 (1) *CONSTRUCTION.*—*The Federal share of the*
 9 *cost of construction of the Assiniboine and Sioux*
 10 *Rural Water System shall be 100 percent, and shall*
 11 *be funded through annual appropriations to the Bu-*
 12 *reau of Reclamation.*

13 (2) *OPERATION AND MAINTENANCE.*—*The Fed-*
 14 *eral share of the cost of operation and maintenance*
 15 *of the Assiniboine and Sioux Rural Water System*
 16 *shall be 100 percent, and shall be funded through an-*
 17 *ual appropriations to the Bureau of Indian Affairs.*

18 **SEC. 5. DRY PRAIRIE RURAL WATER SYSTEM.**

19 (a) *PLANNING AND CONSTRUCTION.*—

20 (1) *AUTHORIZATION.*—*The Secretary shall enter*
 21 *into a cooperative agreement with Dry Prairie Rural*
 22 *Water Association Incorporated (or any successor*
 23 *non-Federal entity) to provide Federal funds for the*
 24 *planning, design, and construction of the Dry Prairie*
 25 *Rural Water System in Roosevelt, Sheridan, Daniels,*

1 *and Valley Counties, Montana, outside the Fort Peck*
2 *Indian Reservation.*

3 (2) *USE OF FEDERAL FUNDS.—*

4 (A) *FEDERAL SHARE.—The Federal share*
5 *of the cost of planning, design, and construction*
6 *of the Dry Prairie Rural Water System shall be*
7 *not more than 76 percent, and shall be funded*
8 *with amounts appropriated from the reclamation*
9 *fund. Such amounts shall not be returnable or*
10 *reimbursable under the Federal reclamation*
11 *laws.*

12 (B) *COOPERATIVE AGREEMENTS.—Federal*
13 *funds made available to carry out this section*
14 *may be obligated and expended only through a*
15 *cooperative agreement entered into under sub-*
16 *section (c).*

17 (b) *COMPONENTS.—The components of the Dry Prairie*
18 *Rural Water System facilities on which Federal funds may*
19 *be obligated and expended under this section shall include—*

20 (1) *storage, pumping, interconnection, and pipe-*
21 *line facilities;*

22 (2) *appurtenant buildings and access roads;*

23 (3) *all property and property rights necessary*
24 *for the facilities described in this subsection;*

1 (4) *electrical power transmission and distribu-*
2 *tion facilities necessary for service to Dry Prairie*
3 *Rural Water System facilities; and*

4 (5) *other facilities customary to the development*
5 *of rural water distribution systems in the State, in-*
6 *cluding supplemental water intake, pumping, and*
7 *treatment facilities.*

8 (c) *COOPERATIVE AGREEMENT.—*

9 (1) *IN GENERAL.—The Secretary, with the con-*
10 *currence of the Assiniboine and Sioux Rural Water*
11 *System Board, shall enter into a cooperative agree-*
12 *ment with Dry Prairie Rural Water Association In-*
13 *corporated to provide Federal assistance for the plan-*
14 *ning, design, and construction of the Dry Prairie*
15 *Rural Water System.*

16 (2) *MANDATORY PROVISIONS.—The cooperative*
17 *agreement under paragraph (1) shall specify, in a*
18 *manner that is acceptable to the Secretary and Dry*
19 *Prairie Rural Water Association Incorporated—*

20 (A) *the responsibilities of each party to the*
21 *agreement for—*

22 (i) *needs assessment, feasibility, and*
23 *environmental studies;*

24 (ii) *engineering and design;*

25 (iii) *construction;*

1 (iv) *water conservation measures; and*

2 (v) *administration of contracts relat-*
 3 *ing to performance of the activities de-*
 4 *scribed in clauses (i) through (iv);*

5 (B) *the procedures and requirements for ap-*
 6 *proval and acceptance of the design and con-*
 7 *struction and for carrying out other activities*
 8 *described in subparagraph (A); and*

9 (C) *the rights, responsibilities, and liabil-*
 10 *ities of each party to the agreement.*

11 (d) *SERVICE AREA.—*

12 (1) *IN GENERAL.—Except as provided in para-*
 13 *graph (2), the service area of the Dry Prairie Rural*
 14 *Water System shall be the area in the State—*

15 (A) *north of the Missouri River;*

16 (B) *south of the border between the United*
 17 *States and Canada;*

18 (C) *west of the border between the States of*
 19 *North Dakota and Montana; and*

20 (D) *east of the western line of range 39 east.*

21 (2) *FORT PECK INDIAN RESERVATION.—The serv-*
 22 *ice area shall not include the area inside the Fort*
 23 *Peck Indian Reservation.*

1 (e) *LIMITATION ON AVAILABILITY OF CONSTRUCTION*

2 *FUNDS.—The Secretary shall not obligate funds for con-*

3 *struction of the Dry Prairie Rural Water System until—*

4 (1) *the requirements of the National Environ-*

5 *mental Policy Act of 1969 (42 U.S.C. 4321 et seq.)*

6 *are met with respect to the Dry Prairie Rural Water*

7 *System;*

8 (2) *on or after the date that is 90 days after the*

9 *date of submission to Congress of a final engineering*

10 *report approved by the Secretary; and*

11 (3) *the Secretary publishes a written finding*

12 *that the water conservation plan developed under sec-*

13 *tion 7 includes prudent and reasonable water con-*

14 *servation measures for the operation of the Dry Prai-*

15 *rie Rural Water System that have been shown to be*

16 *economically and financially feasible.*

17 (f) *INTERCONNECTION OF FACILITIES.—The Secretary*

18 *shall—*

19 (1) *interconnect the Dry Prairie Rural Water*

20 *System with the Assiniboine and Sioux Rural Water*

21 *System; and*

22 (2) *provide for the delivery of water to the Dry*

23 *Prairie Rural Water System from the Missouri River*

24 *through the Assiniboine and Sioux Rural Water Sys-*

25 *tem.*

1 (g) *LIMITATION ON USE OF FEDERAL FUNDS.—*

2 (1) *IN GENERAL.—The operation, maintenance,*
 3 *and replacement expenses associated with water deliv-*
 4 *eries from the Assiniboine and Sioux Rural Water*
 5 *System to the Dry Prairie Rural Water System shall*
 6 *not be a Federal responsibility and shall be borne by*
 7 *the Dry Prairie Rural Water System.*

8 (2) *FEDERAL FUNDS.—The Secretary may not*
 9 *obligate or expend any Federal funds for the oper-*
 10 *ation, maintenance, or replacement of the Dry Prai-*
 11 *rie Rural Water System.*

12 (h) *TITLE TO DRY PRAIRIE RURAL WATER SYSTEM.—*
 13 *Title to the Dry Prairie Rural Water System shall be held*
 14 *by Dry Prairie Rural Water Association, Incorporated.*

15 **SEC. 6. USE OF PICK-SLOAN POWER.**

16 (a) *IN GENERAL.—From power designated for future*
 17 *irrigation and drainage pumping for the Pick-Sloan Mis-*
 18 *souri Basin program, the Western Area Power Administra-*
 19 *tion shall make available, at the firm power rate, the capac-*
 20 *ity and energy required to meet the pumping and inci-*
 21 *dental operational requirements of the Fort Peck Reserva-*
 22 *tion Rural Water System.*

23 (b) *QUALIFICATION TO USE PICK-SLOAN POWER.—*
 24 *For as long as the Fort Peck Reservation rural water sup-*
 25 *ply system operates on a not-for-profit basis, the portions*

1 *of the water supply project constructed with assistance*
2 *under this Act shall be eligible to receive firm power from*
3 *the Pick-Sloan Missouri Basin program established by sec-*
4 *tion 9 of the Act of December 22, 1944 (chapter 665; 58*
5 *Stat. 887), popularly known as the Flood Control Act of*
6 *1944.*

7 *(c) RECOVERY OF EXPENSES.—*

8 *(1) ASSINIBOINE AND SIOUX RURAL WATER SYS-*
9 *TEM.—In the case of the Assiniboine and Sioux Rural*
10 *Water System, the Western Area Power Administra-*
11 *tion shall recover expenses associated with power pur-*
12 *chases under subsection (a) through a separate power*
13 *charge sufficient to cover such expenses. Such charge*
14 *shall be paid fully through the annual appropriations*
15 *to the Bureau of Indian Affairs.*

16 *(2) DRY PRAIRIE RURAL WATER SYSTEM.—In the*
17 *case of the Dry Prairie Rural Water System, the*
18 *Western Area Power Administration shall recover ex-*
19 *penses associated with power purchases under sub-*
20 *section (a) through a separate power charge sufficient*
21 *to cover expenses. Such charge shall be paid fully by*
22 *the Dry Prairie Rural Water System.*

23 *(d) ADDITIONAL POWER.—If power in addition to that*
24 *made available under subsection (a) is required to meet the*
25 *pumping requirements of the Fort Peck Reservation Rural*

1 *Water System, the Administrator of the Western Area*
 2 *Power Administration may purchase the necessary addi-*
 3 *tional power at the best available rate. The costs of such*
 4 *purchases shall be reimbursed to the Administrator accord-*
 5 *ing to the terms identified in subsection (c).*

6 **SEC. 7. WATER CONSERVATION PLAN.**

7 (a) *IN GENERAL.*—*The Fort Peck Tribes and Dry*
 8 *Prairie Rural Water Association Incorporated shall develop*
 9 *a water conservation plan containing—*

10 (1) *a description of water conservation objectives;*

11 (2) *a description of appropriate water conserva-*
 12 *tion measures; and*

13 (3) *a time schedule for implementing the meas-*
 14 *ures and this Act to meet the water conservation ob-*
 15 *jectives.*

16 (b) *PURPOSE.*—*The water conservation plan under*
 17 *subsection (a) shall be designed to ensure that users of water*
 18 *from the Assiniboine and Sioux Rural Water System and*
 19 *the Dry Prairie Rural Water System will use the best prac-*
 20 *ticable technology and management techniques to conserve*
 21 *water.*

22 (c) *PUBLIC PARTICIPATION.*—*Section 210(c) of the*
 23 *Reclamation Reform Act of 1982 (43 U.S.C. 390jj(c)) shall*
 24 *apply to an activity authorized under this Act.*

1 **SEC. 8. WATER RIGHTS.**

2 (a) *IN GENERAL.*—*This Act does not—*

3 (1) *impair the validity of or preempt any provi-*
4 *sion of State water law or any interstate compact*
5 *governing water;*

6 (2) *alter the right of any State to any appro-*
7 *priated share of the water of any body of surface or*
8 *ground water, whether determined by any past or fu-*
9 *ture interstate compact or by any past or future legis-*
10 *lative or final judicial allocation;*

11 (3) *preempt or modify any Federal or State law*
12 *or interstate compact concerning water quality or dis-*
13 *posal;*

14 (4) *confer on any non-Federal entity the author-*
15 *ity to exercise any Federal right to the water of any*
16 *stream or to any ground water resource;*

17 (5) *affect any right of the Fort Peck Tribes to*
18 *water, located within or outside the external bound-*
19 *aries of the Fort Peck Indian Reservation, based on*
20 *a treaty, compact, executive order, agreement, Act of*
21 *Congress, aboriginal title, the decision in Winters v.*
22 *United States, 207 U.S. 564 (1908) (commonly*
23 *known as the “Winters Doctrine”), or other law; or*

24 (6) *validate or invalidate any assertion of the*
25 *existence, nonexistence, or extinguishment of any*
26 *water right held or Indian water compact entered*

1 *into by the Fort Peck Tribes or by any other Indian*
 2 *tribe or individual Indian under Federal or State*
 3 *law.*

4 **(b) OFFSET AGAINST CLAIMS.**—*Any funds received by*
 5 *the Fort Peck Tribes pursuant to this Act shall be used to*
 6 *offset any claims for money damages against the United*
 7 *States by the Fort Peck Tribes, existing on the date of the*
 8 *enactment of this Act, for water rights based on a treaty,*
 9 *compact, executive order, agreement, Act of Congress, ab-*
 10 *original title, the decision in Winters v. United States, 207*
 11 *U.S. 564 (1908), or other law.*

12 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

13 **(a) ASSINIBOINE AND SIOUX RURAL WATER SYS-**
 14 **TEM.**—*There are authorized to be appropriated—*

15 *(1) to the Bureau of Reclamation over a period*
 16 *of 10 fiscal years, \$124,000,000 for the planning, de-*
 17 *sign, and construction of the Assiniboine and Sioux*
 18 *Rural Water System; and*

19 *(2) to the Bureau of Indian Affairs such sums as*
 20 *are necessary for the operation and maintenance of*
 21 *the Assiniboine and Sioux Rural Water System.*

22 **(b) DRY PRAIRIE RURAL WATER SYSTEM.**—*There is*
 23 *authorized to be appropriated, over a period of 10 fiscal*
 24 *years, \$51,000,000 for the planning, design, and construc-*
 25 *tion of the Dry Prairie Rural Water System.*

1 (c) *COST INDEXING.*—*The funds authorized to be ap-*
2 *propriated may be increased or decreased by such amounts*
3 *as are justified by reason of ordinary fluctuations in devel-*
4 *opment costs incurred after October 1, 1998, as indicated*
5 *by engineering cost indices applicable for the type of con-*
6 *struction involved.*

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H. R. 1124

[Report No. 106-824]

A BILL

To authorize construction of the Fort Peck Reservation Rural Water System in the State of Montana, and for other purposes.

SEPTEMBER 7, 2000

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed